

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL ACTION</b>
	:	<b>NO. 09-304</b>
v.	:	
	:	<b>CIVIL ACTION</b>
<b>JOSEPH S. FORTE</b>	:	<b>NO. 11-1395</b>
	:	

**ORDER**

**AND NOW**, this 13th day of June, 2011, upon consideration of the Petition under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Document No. 38, filed February 28, 2011), petitioner's Motion for Extension of Time to File a Memorandum in Support and Request for Discovery (Document No. 39, filed February 28, 2011), the Government's Motion to Dismiss Petition under 28 U.S.C. § 2255 (Document No. 41, filed March 15, 2011),<sup>1</sup> Petitioner's Response to the Court's March 16, 2011 Order and Reply to Government's Motion to Dismiss (Document No. 43, filed April 1, 2011),<sup>2</sup> the Government's Reply to Petitioner's Response to the Court's Order and Reply to the Government's Motion to Dismiss (Document No. 44, filed April 6, 2011), and Defendant's Motion to Expand the Record Pursuant to Rule 7 (Document No. 45, filed June 9, 2011), for the reasons stated in the Memorandum dated June 13, 2011, **IT IS ORDERED** as follows:

1. The Government's Motion to Dismiss Petition under 28 U.S.C. § 2255 is **GRANTED**;
2. The Petition under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence filed by *pro se* petitioner, Joseph F. Forte, is **DISMISSED** on the ground that it is time-barred;
3. Defendant's Motion for Extension of Time to File Memorandum in Support and

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<sup>1</sup>The Government's Motion to Dismiss also included a response to petitioner's request for an extension of discovery.

<sup>2</sup>Petitioner's Reply also included a response to the Court's March 16, 2011 Order.

Request for Discovery, and Defendant's Motion to Expand the Record Pursuant to Rule 7, are  
**DENIED AS MOOT**; and,

4. A certificate of appealability will not issue because reasonable jurists would not debate this Court's procedural ruling as required under 28 U.S.C. § 2253(c)(2). See Slack v. McDaniel, 529 U.S. 473, 484 (2000).

**BY THE COURT:**

/s/ Hon. Jan E. DuBois  
**JAN E. DUBOIS, J.**